



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2021

CORAM :

**THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE  
AND**

**The HON'BLE MR.JUSTICE M.DURAI SWAMY**

W.P.(MD) No. 18993 of 2018

and

W.M.P(MD) No. 16830 of 2018

C. Sivakumar

... Petitioner

**Vs**

1.The Regional Manager,  
State Bank of India (Zonal No.IV),  
Madhura Complex,  
Dr.Ambedker Road,  
Madurai - 2.

2.The Authorized Officer,  
State Bank of India,  
Nehruji Nagar Branch,  
Dindigul,  
Dindigul District.

3.Chandrasekaran

4.S.K.Pandian

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari Mandamus, to call for the entire records pertaining to the Sale Certificate issued by the second respondent in his proceedings in BR-16-2018-19 dated 05.07.2018 and quash same as illegal and arbitrary and consequently direct the first and second respondents to hand over the house property to the petitioner in Door No.9, Plot No.9, KMS Nagar, Ward No.5, Block No.28, Town survey number 50/8 and 51/8, situated in Dindigul Town, Dindigul District.

|                                |                          |
|--------------------------------|--------------------------|
| For Petitioner                 | : Mr. G. Gomathi Shankar |
| For 3 <sup>rd</sup> Respondent | : Mr. S. Senthil Kumar   |
| For 2 <sup>nd</sup> Respondent | : Mr. Ananth C. Rajesh   |

**ORDER**

**[Order of the Court was made by The Hon'ble CHIEF JUSTICE]**

The petition is rather peculiar and it is more than likely that the present petitioner may have been set up by the borrower. However, the petition cannot be entertained since the remedy of the petitioner lies elsewhere.



2.The challenge here is to a sale certificate issued by the second respondent pertaining to the sale of the property described therein in favour of the third respondent purchaser at an auction conducted under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. A long story is made out by the petitioner to the effect that the fourth respondent was the original owner of the relevant property and the fourth respondent executed a registered power of attorney in favour of one Ramesh in 2010 and that the petitioner purchased the property from the said Ramesh upon paying due consideration in the year 2011. However, such facts cannot be taken note of nor can any relief be granted to the petitioner herein.

3.It is evident that the respondent bank has taken a measure under Section 13(4) of the Act of 2002 in respect of the credit facilities that it had granted to the fourth respondent. In such a scenario, any person aggrieved by the measures adopted by the secured creditor is entitled to approach the jurisdictional Debts Recovery Tribunal with a grievance.

4.Since there was an efficacious alternative remedy available to the petitioner, the petitioner should not have invoked this extraordinary jurisdiction. WP(MD) No.18993 of 2018 is disposed of by leaving the petitioner free to approach the appropriate DRT in accordance with law. WMP (MD) No. 16830 of 2018 is closed. There will be no order as to costs.

Sd/-

Assistant Registrar (A.D II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS )

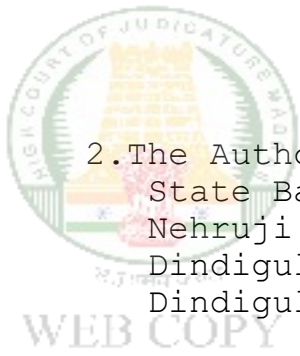
mnr/lr

*Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

**To**

1.The Regional Manager,  
State Bank of India (Zonal No.IV),  
Madhuras Complex,  
Dr.Ambedker Road,  
Madurai - 2.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Authorized Officer,  
State Bank of India,  
Nehruji Nagar Branch,  
Dindigul,  
Dindigul District.

+1 CC to M/s.G.GOMATHI SANKAR, Advocate ( SR-30517[F] dated  
28/09/2021 )

+1 CC to M/s.ANANTH C RAJESH, Advocate ( SR-30650[F] dated  
29/09/2021 )

**W.P. (MD) No. 18993 of 2018**  
**28.09.2021**

**NSN(CO)**  
**RS (06.10.2021) 3P 5C**